

Notice of Allowability

Application No.

09/852,053

Examiner

Christian L. Fronda

Applicant(s)

BERENS ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to AMENDMENT AND RESPONSE PURSUANT TO 37 C.F.R. 1.116 dated 02/01/2005.
2. ☒ The allowed claim(s) is/are 24-43.
3. ☒ The drawings filed on 10 May 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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DETAILED ACTION

1. Claims 24-43 are pending and under consideration in this Office Action.
2. The rejection of claim 20 under 35 U.S.C. 112, 1st paragraph, is moot and has been withdrawn in view of applicants' cancellation of claim 20.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Thomas Cunningham on 03/22/2005.

4. The application has been amended as follows:
 - In claim 24, line 2, replace the word "comprising" with the phrase "transformed with".
 - Replace claim 25 with the following:
"The bacterium of claim 24, wherein said polypeptide comprising the amino acid sequence of SEQ ID NO: 3 enhances excretion of an α -amylase from the cytoplasm of said bacterium to a broth as compared to a non-transformed wild-type *Corynebacterium glutamicum* bacterium."
 - Replace claim 26 with the following:
"The bacterium of claim 24, wherein said polypeptide comprising the amino acid sequence of SEQ ID NO: 4 enhances excretion of an α -amylase from the cytoplasm of said bacterium to a broth as compared to a non-transformed wild-type *Corynebacterium glutamicum* bacterium."

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- In claim 27, line 2, replace the word “comprising” with the phrase “transformed with”.
- Replace claim 28 with the following:
“The bacterium of claim 27, wherein said isolated polynucleotide comprising nucleotides 34 to 1944 of SEQ ID NO: 1 encodes a polypeptide that enhances excretion of an α -amylase from the cytoplasm of said bacterium to a broth as compared to a non-transformed wild-type *Corynebacterium glutamicum* bacterium.”
- Replace claim 29 with the following:
“The bacterium of claim 27, wherein said isolated polynucleotide comprising nucleotides 22 to 1230 of SEQ ID NO: 2 encodes a polypeptide that enhances excretion of an α -amylase from the cytoplasm of said bacterium to a broth as compared to a non-transformed wild-type *Corynebacterium glutamicum* bacterium.”
- Replace claim 30 with the following:
“The bacterium of claim 24 wherein said isolated polynucleotide encoding said polypeptide is overexpressed.”
- Replace claim 31 with the following:
“The bacterium of claims 28 or 29 wherein said isolated polynucleotide encoding said polypeptide is overexpressed.”
- In claim 32, line 2, replace “24 and 27” with “24 or 27”.
- In claim 33, lines 1-2, replace “24 and 27” with “24 or 27”.
- In claim 34, line 1, replace “24 and 27” with “24 or 27”.

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- Replace claim 40 with the following:
“A recombinant *Corynebacterium glutamicum* transformed with a *Corynebacterium glutamicum* nucleic acid consisting of SEQ ID NO: 1 or a fragment thereof, and encoding a polypeptide that enhances excretion of an α -amylase from the cytoplasm of said bacterium to a broth as compared to a non-transformed wild-type *Corynebacterium glutamicum* bacterium.”
- Replace claim 41 with the following:
“A recombinant *Corynebacterium glutamicum* transformed with a *Corynebacterium glutamicum* nucleic acid consisting of SEQ ID NO: 2 or a fragment thereof, and encoding a polypeptide that enhances excretion of an α -amylase from the cytoplasm of said bacterium to a broth as compared to a non-transformed wild-type *Corynebacterium glutamicum* bacterium.”
- In claim 43, line 1, replace the word “comprising” with the phrase “transformed with”.

Allowable Subject Matter

5. Claims 24-43 are allowed.

6. The following is an examiner's statement of reasons for allowance:
Following a diligent search it was determined that prior art neither teaches nor suggests an isolated polynucleotide encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 3, an isolated polynucleotide encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 4, a vector comprising either of said isolated polynucleotides, a host cell comprising said vector, and a recombinant *Corynebacterium glutamicum* bacterium comprising either of said isolated polynucleotides.

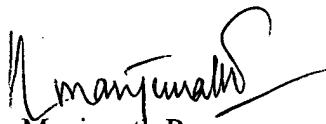
7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian L Fronda whose telephone number is (571)272-0929. The examiner can normally be reached Monday-Friday between 9:00AM - 5:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura N Achutamurthy can be reached on (571)272-0928. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christian L. Fronda
Patent Examiner
Art Unit 1652



Manjunath Rao
Primary Patent Examiner
Art Unit 1652